

1 SB136  
2 103767-3  
3 By Senators Waggoner, Brooks, Holley, Erwin, French, Dixon,  
4 Mitchell, Mitchem, Bedford, Little (T), Glover, Little (Z),  
5 Barron, Smith, Means, Butler, Preuitt, Orr, and Ross  
6 RFD: Governmental Affairs  
7 First Read: 03-FEB-09



SB136

ENROLLED, An Act,

To amend Section 32-9A-2, as last amended by Act 2008-336, 2008 Regular Session, and Section 32-9A-4, Code of Alabama 1975, relating to the operation of commercial motor vehicles; to increase penalties for motor carriers and drivers who fail to comply with federal regulations for securing metal coils or who allow metal coils to fall onto public roads; to require driver training and certification; to provide for criminal penalties; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature hereby finds and declares that a number of incidents in recent past of metal coils dropping, falling, shifting, or otherwise escaping from a commercial motor vehicle onto public highways or other public ways causing danger to the public and great concern to the Legislature. This bill shall be known as The Metal Coil Securement Act.

1           Section 2. Section 32-9A-2, as last amended by Act  
2           2008-336, 2008 Regular Session, and Section 32-9A-4, Code of  
3           Alabama 1975, are amended to read as follows:

4           "§32-9A-2.

5           "(a) (1) Except as otherwise provided in subsection  
6           (b), no person may operate a commercial motor vehicle in this  
7           state, or fail to maintain required records or reports, in  
8           violation of the federal motor carrier safety regulations as  
9           prescribed by the U.S. Department of Transportation, 49 C.F.R.  
10          Part 107, Parts 171-180, Parts 382-384, and Parts 390-399 and  
11          as they may be amended in the future. Except as otherwise  
12          provided herein, this chapter shall not be construed to repeal  
13          or supersede other laws relating to the operation of motor  
14          vehicles.

15          "(2)a. No person may operate a commercial motor  
16          vehicle in this state in violation of 49 CFR §393.120, as  
17          amended, relating to load securement for certain metal coils.

18          "b. No one owning, leasing, or allowing a commercial  
19          vehicle to be operated in this state shall knowingly or  
20          negligently be in violation of 49 CFR §393.120, as amended,  
21          relating to load securement for metal coils.

22          "(3) No person may knowingly or negligently own or  
23          lease or cause to be operated on any public highway, road,  
24          street, or other public right-of-way a commercial motor  
25          vehicle loaded with a metal coil in a manner that fails to

1       comply with 49 CFR §393.120 and thereby allows a metal coil to  
2       drop, fall, spill, shift, or otherwise escape from the  
3       commercial vehicle onto any public highway, road, street, or  
4       any other public right-of-way.

5               "(4)a. No motor carrier may initiate or terminate in  
6       this state the commercial transport of metal coils, as defined  
7       in 49 CFR §393.120, unless the commercial vehicle operator is  
8       certified in proper load securement as provided in 49 CFR  
9       §393.120. Certification shall be conducted according to  
10      standards published by the Department of Public Safety and  
11      certified by the motor carrier and the driver on forms  
12      provided by the department.

13              "b. The operator of a commercial motor vehicle  
14      involved in the commercial transport of metal coils subject to  
15      this subdivision shall be certified in proper load securement  
16      as provided in 49 CFR §393.120, carry the certification in the  
17      vehicle, and produce the certification upon demand.

18              "(5) Except as it relates to subdivision (3), no law  
19      enforcement officer may make an arrest or issue a citation  
20      under this chapter unless he or she has satisfactorily  
21      completed, as a part of his or her training, the basic course  
22      of instruction developed by the Commercial Vehicle Safety  
23      Alliance. Those law enforcement officers authorized to enforce  
24      this chapter shall annually receive in service training  
25      related to commercial motor vehicle operations, including, but

1 not limited to, training in current federal motor carrier  
2 safety regulations, safety inspection procedures, and  
3 out-of-service criteria. The annual training requirements  
4 shall be designated and specified by the director. An officer  
5 qualified under this section to make an arrest or issue a  
6 citation pursuant to subdivision (3) may arrest or issue a  
7 citation to the driver of a commercial motor vehicle without a  
8 warrant and without witnessing the violation personally if,  
9 upon personal investigation, the officer has reasonable cause  
10 to believe that a violation has occurred.

11 "(b) Notwithstanding subsection (a) or any other  
12 provision of law to the contrary:

13 "(1) Amendments to the hours of service regulations  
14 promulgated by the U.S. Department of Transportation at 68  
15 Federal Register 22456, April 28, 2003 and effective June 27,  
16 2003, shall not apply to utility service vehicles as defined  
17 at 49 C.F.R. §395.2, not including television cable or  
18 community antenna service vehicles, which are owned or  
19 operated by utilities regulated by the Public Service  
20 Commission or electric cooperatives and which are engaged  
21 solely in intrastate commerce in this state until June 27,  
22 2006, provided the amendments are valid and remain in effect  
23 as of that date. Hours of service regulations that are  
24 applicable in this state immediately prior to June 27, 2003,  
25 shall remain applicable to utility service vehicles engaged

1 solely in intrastate commerce in this state until June 27,  
2 2006. If the U.S. Department of Transportation issues an  
3 official finding that this provision may result in the loss of  
4 federal Motor Carrier Safety Assistance Program funding, the  
5 department may promulgate regulations providing for earlier  
6 implementation of the amendments to the federal hours of  
7 service regulations. If federal law or regulations are amended  
8 at any time to exempt utility service vehicles from the hours  
9 of service requirements, any exemption shall be effective in  
10 this state immediately for the duration of the federal  
11 exemption.

12 "(2) The department may promulgate regulations  
13 suspending the effective date for up to three years after  
14 adoption of any motor carrier safety regulation by the U.S.  
15 Department of Transportation as applied to vehicles engaged  
16 solely in intrastate commerce in this state, provided that the  
17 suspension does not result in the loss of federal Motor  
18 Carrier Safety Assistance Program funding.

19 "(3) The department may enter into agreements with  
20 state and local emergency management agencies and private  
21 parties establishing procedures for complying with 49 U.S.C.  
22 §31502(e) and federal regulations promulgated thereto at 49  
23 C.F.R. §390.23 which provide an exemption from the hours of  
24 service regulations during certain emergencies.

1           "(4) The department may promulgate regulations  
2     granting any waiver, variance, or exemption permitted under 49  
3     U.S.C. §31104(h) and federal regulations promulgated thereto  
4     at 49 C.F.R. §§350.339-350.345, provided that the waiver,  
5     variance, or exemption does not result in the loss of federal  
6     Motor Carrier Safety Assistance Program funding and does not  
7     take effect unless approved by the U.S. Department of  
8     Transportation if that approval is required.

9           "(5) A commercial motor vehicle operated in  
10    intrastate commerce which does not equal or exceed 26,001  
11    pounds, except a motor vehicle, regardless of weight, which is  
12    designed or used to transport 16 or more passengers, including  
13    the driver, or which is used in the transportation of  
14    hazardous materials and required to be placarded pursuant to  
15    49 CFR Part 172, Subpart F, shall be exempt from the federal  
16    motor carrier regulations otherwise made applicable in this  
17    state pursuant to subsection (a). For purposes of this  
18    subdivision, "commercial motor vehicle" means a commercial  
19    motor vehicle as defined in 49 CFR §390.5.

20          "(6) For purposes of those provisions of 49 C.F.R.  
21    §395 providing for exemptions from the hours of service  
22    requirements of that section respecting the operation of motor  
23    vehicles for the transportation of agricultural commodities as  
24    contemplated in that section, the planting and harvesting  
25    season for this state is defined by the Legislature as the

1 period from April 1 of each calendar year to March 31 of the  
2 next succeeding calendar year.

3 "(c) Nothing in this section as amended by the act  
4 adding this language shall be interpreted to exempt any person  
5 from the obligations to operate a motor vehicle in a safe and  
6 proper manner or to observe the rules of the road, nor shall  
7 any provision of this section as amended by the act adding  
8 this language be interpreted to immunize any person from civil  
9 liability for actionable conduct.

10 "(d) The Department of Public Safety shall publish  
11 standards for training drivers of commercial motor vehicles in  
12 proper load securement for metal coils as provided in 49 CFR  
13 §393.120 and provide for certification of drivers of  
14 commercial motor vehicles carrying metal coils.

15 "§32-9A-4.

16 "(a) Any person violating Section 32-9A-2(a)(1)  
17 shall be guilty of a misdemeanor and punished by a fine of not  
18 less than twenty-five dollars (\$25) nor more than two thousand  
19 dollars (\$2,000) for each offense. In addition, the court may  
20 impose a sentence of imprisonment in the county jail, not to  
21 exceed 30 days, for each offense.

22 "(b) Any person violating Section 32-9A-2(a)(2)a. or  
23 a motor carrier violating Section 32-9A-2(a)(2)b. shall be  
24 guilty of a misdemeanor and punished by a fine of not less



1       than one thousand dollars (\$1,000) nor more than two thousand  
2       five hundred dollars (\$2,500) for each offense.

3               "(c) Any operator of a commercial motor vehicle  
4       violating Section 32-9A-2(a)(2)a. in which a metal coil drops,  
5       falls, spills, shifts, or otherwise escapes from the vehicle  
6       shall be guilty of a misdemeanor and punished by a fine of not  
7       less than two thousand five hundred dollars (\$2,500) nor more  
8       than five thousand dollars (\$5,000).

9               "(d) Any person violating Section 32-9A-2(a)(3) or  
10       any motor carrier violating Section 32-9A-2(a)(4)a. shall be  
11       guilty of a misdemeanor and punished by a fine of not less  
12       than five thousand dollars (\$5,000) nor more than ten thousand  
13       dollars (\$10,000).

14              "(e) Any person violating Section 32-9A-2(a)(4)b.  
15       shall be guilty of a misdemeanor and punishable by a fine of  
16       not less than two hundred and fifty dollars (\$250) nor more  
17       than one thousand dollars (\$1,000).

18              "(f) In addition to the other penalties for a  
19       violation of subdivisions (2), (3), or (4) of Section  
20       32-9A-2(a), the court may impose a sentence of imprisonment in  
21       the county jail, not to exceed one year, for each conviction  
22       under subdivisions (2), (3), or (4) of Section 32-9A-2(a).

23              "(g) In addition to other punishment fixed by law,  
24       the court may enter an order prohibiting the person from  
25       operating any commercial motor vehicle for a period to be

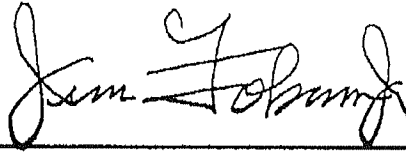
1 specified by the court, or perpetually, as the court may  
2 determine."

3 Section 3. The Department of Public Safety shall use  
4 their commercial vehicle inspection authority, including  
5 portable scales, in those areas of the state that are prone to  
6 accidents involving the transportation of metal coils to  
7 aggressively inspect and weigh vehicles transporting metal  
8 coils to insure the loads are being transported safely and in  
9 compliance with state and federal regulations.

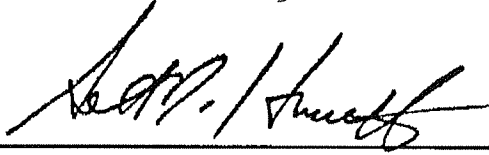
10 Section 4. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18 Section 5. The provisions of this act are severable.  
19 If any part of this act is declared invalid or  
20 unconstitutional, that declaration shall not affect the part  
21 which remains.

22 Section 6. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.



President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB136

Senate 17-FEB-09

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee  
Secretary

House of Representatives  
Passed: 10-MAR-09

By: Senator Waggoner

APPROVED 

TIME 10:00 a.m.

March 23, 2009  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-143  
Bill Num....: S-136